

REMARKS

The Examiner rejected claims 1, 3-4 and 7-11 under 35 U.S.C. 102(e) as being anticipated by Clayton, *et al* (hereafter "Clayton") (US 2003/0039024). The above amendments cancel Claim 1 and make Claims 3-9 dependent from Claim 2. Hence, this rejection is moot with respect to Claims 1, 3-4, and 7-9, since the Examiner admits that Clayton does not teach the polarization filter of Claim 2. With reference to Claims 10 and 11, Applicant traverses this rejection.

The Examiner has the burden of showing by reference to the cited art each claim limitation in the reference. Anticipation under 35 U.S.C. 102 requires that each element of the claim in issue be found either expressly or inherently in a single prior art reference. In *re* King, 231 USPQ 136, 138 (Fed. Cir. 1986); *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 781, 789 (Fed. Cir. 1983). The mere fact that a certain thing may result from a given set of circumstances is not sufficient to sustain a rejection for anticipation. *Ex parte Skinner*, 2 USPQ2d 1788, 1789 (BdPatApp&Int 1986). "When the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such a teaching or suggestion appears in the reference" (*In re Rijckaert*, 28 USPQ2d, 1955, 1957).

With reference to Claim 10, the Examiner has not pointed to any teaching in Clayton of a pumping laser having a top mirror that is electrically connected to the bottom mirror of the first optical cavity. Accordingly, Applicant submits that the Examiner has not made a *prima facie* case for anticipation with reference to Claim 10 or Claim 11.

With reference to Claim 11, the Examiner has not pointed to any teaching in Clayton that the pumping laser has a top mirror that is located on the end of the optical fiber. In fact, Clayton teaches a pumping laser that is completely separate from the optical fiber and gain laser. Hence, if anything, Clayton teaches away from the claimed arrangement. Accordingly, there are additional grounds for allowing Claim 11.

The Examiner rejected Claim 2 under 35 U.S.C. 103(a) as being unpatentable over Clayton, in view of Lading, *et al* (hereafter "Lading") (US 6,493,090). Applicant traverses this rejection. The above amendment to Claim 2 places this claim in independent form.

To sustain a rejection under 35 U.S.C. 103, there must be evidence that a skilled artisan, confronted with the same problem as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. An implicit, generalized finding that a person of ordinary skill in the art, faced with the same problems as the inventor, would have found the claimed combination obvious is insufficient. *Ecolochem Inc. v. Southern California Edison Co.*, 56 USPQ2d, 1065, 1069, CAFC, September 7, 2000.

In making this rejection, the Examiner admits that Clayton does not disclose the claimed polarization filter. The Examiner looks to Lading as teaching a polarization filter at col. 12, lines 26-27. According to the Examiner, the provision of such a polarization filter would provide a benefit in the device of Clayton. However, the Examiner does not provide any details as to the benefit or where the benefit is taught in the art.

Lading teaches a scheme for detecting a substance by measuring its index of refraction in an apparatus that can include a polarization filter. At most, Lading teaches that polarization filters are known and used in optical assemblies. The Examiner has not pointed to any teaching in the art that putting such a filter between the mirrors in the device taught in Clayton provides any benefit. Accordingly, Applicant submits that the Examiner has not made a *prima facie* case for obviousness with reference to Claim 2 or the claims dependent therefrom.

The Examiner Rejected Claims 5-6 under 35 U.S.C. 103(a) as being unpatentable over Clayton in view of Boucart, *et al* (hereafter "Boucart") (US 6,535,541). Applicant traverses this rejection.

In making this rejection, the Examiner admits that Clayton does not teach the claimed mechanism for altering the wavelength. The Examiner looks to Boucart for the missing teaching and specifically refers to col. 10, lines 16-18 as providing the missing teaching. The

Examiner claims that providing this mechanism would provide the benefit of altering the wavelength.

First, Applicant must point out that the passage cited in Boucart does not teach a Bragg reflector having a mechanism for altering the wavelength of the light reflected thereby. The device taught in Boucart alters the wavelength of light by moving the relative position of the Bragg reflector relative to another mirror to change the resonant frequency of a cavity, not by changing the wavelength of the light reflected by the Bragg reflector. The Examiner has not pointed to any teaching in Boucart of altering the internal spacing of the layers in the Bragg reflector to alter the wavelength of light reflected by that mirror. Accordingly, the combination of references cited by the Examiner does not teach all of the claimed elements, and hence, the Examiner has not made a *prima facie* case for obviousness with reference to Claim 5 and the claims dependent therefrom. The above amendments to Claim 5 place the claim in independent form.

New Claim 12 is directed to the embodiment of the present invention shown in Figure 4 of the specification. Applicant submits that this structure is not taught in the cited references.

I hereby certify that this paper is being sent by FAX to 703-872-9318.

Respectfully Submitted,

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